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REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-THIRD SESSION OF THE COMMISSION

Draft report of the Commission

Rapporteur: Ms. Margarita ESCOBAR LOPEZ

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The Commission on Human Rights,

Recalling its resolution 1996/11 of 11 April 1996 and reaffirming the Vienna Declaration and Programme of Action, which stated the need for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels,

Taking note of the work carried out by the Committee on Economic, Social and Cultural Rights, the working group on structural adjustment programmes and economic, social and cultural rights, and other relevant intergovernmental and non-governmental organizations, in particular the structural adjustment participatory review initiative of the World Bank,

1. Welcomes:

(a) The adoption by the United Nations Conference on Human Settlements (Habitat II), held in Istanbul from 3 to 14 June 1996, of the Istanbul Declaration on Human Settlements and the Habitat Agenda (A/CONF.165/14), in particular the recognition of the right to adequate housing as an important component of the right to an adequate standard of living, the definition of the role of the private sector and civil society, and the reaffirmation of the commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments;

(b) The adoption by the World Food Summit, held in Rome from 13 to 17 November 1996, of the Rome Declaration on World Food Security and theWorld Food Summit Plan of Action, in particular the reaffirmation of the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger;

2. Notes with interest:

(a) The report of the Committee on Economic, Social and Cultural Rights on a draft optional protocol for the consideration of communications concerning non-compliance with the International Covenant on Economic, Social and Cultural Rights (E/CN.4/1997/105, annex);

(b) The proposals adopted by the Committee on Economic, Social and Cultural Rights at its fifteenth session to enhance the central role played by the Committee in the promotion and protection of economic, social and cultural rights, namely the proposal for the adoption of a plan of action for the Committee that would increase its ability to examine national reports and to assist interested Governments in their reporting duties and the proposal to recommend to the Commission the appointment of a special rapporteur on economic, social and cultural rights;

(c) The recommendations adopted by the working group on structural adjustment programmes and economic, social and cultural rights;

3. Reaffirms:

(a) The inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights and the process of development, the central purpose of which is the realization of the potentialities of the human person with the effective participation of all members of society in relevant decision-making processes as agents and beneficiaries of development, as well as with a fair distribution of its benefits;

(b) That all persons in all countries are entitled to the realization of their economic, social and cultural rights, which are indispensable to their dignity and the free development of their personality;

(c) The universality, indivisibility, interdependence and interrelationship of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights;

(d) The importance of international cooperation for the promotion and protection of all human rights, including economic, social and cultural rights;

4. Calls upon all States:

(a) To secure, through national development policies and international cooperation, full respect for economic, social and cultural rights, giving priority to the individuals, most often women, and communities living in extreme poverty and therefore most vulnerable and disadvantaged;

(b) To promote the effective and wide participation of representatives of civil society in the decision-making processes related to the promotion and protection of economic, social and cultural rights;

(c) To consider the desirability of drawing up national action plans identifying steps to improve the situation of human rights in general with specific national benchmarks designed to give effect to minimum essential levels of enjoyment of economic, social and cultural rights;

5. Calls upon States parties to the International Covenant on Economic, Social and Cultural Rights:

(a) To submit their reports to the Committee on Economic, Social and Cultural Rights in a regular and timely manner as recommended in the statement of the human rights treaty bodies adopted during the World Conference on Human Rights;

(b) To promote the participation of representatives of civil society in the process of preparation of their periodic reports to the Committee on Economic, Social and Cultural Rights and in the implementation of the recommendations of the Committee;

6. Decides:

(a) To request the High Commissioner for Human Rights and the relevant human rights mechanisms and treaty bodies to give, within their mandates, greater attention to the protection of economic, social and cultural rights;

(b) To request the Secretary-General to submit reports to the General Assembly at its fifty-second session and to the Commission on Human Rights at its fifty-fourth session, under the relevant agenda items, on progress towards the realization of the rights set forth in the International Covenant on Economic, Social and Cultural Rights, giving due reflection to:

(i) The views of all relevant national and international organizations, governmental or non-governmental, on the opportuneness and resource implications of appointing a special rapporteur to encourage the promotion and protection of economic, social and cultural rights in general and

(ii) Their reactions to the report of the Committee on Economic, Social and Cultural Rights on a draft optional protocol for the consideration of communications concerning non-compliance with the International Covenant on Economic, Social and Cultural Rights (E/CN.4/1997/105, annex);

(c) To request the High Commissioner for Human Rights to give appropriate consideration to the proposed plan of action designed to enhance the ability of the Committee on Economic, Social and Cultural Rights to assist interested Governments in their reporting obligations and its capacity to process and follow up on the examination of those reports.

56th meeting
11 April 1997
[Adopted without a vote. See chap. V.]

1997/18. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

The Commission on Human Rights,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling also, General Assembly resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling article 18 of the International Covenant on Civil and Political Rights,

Emphasizing that the right to freedom of thought, conscience, religion and belief is far-reaching and profound, and that it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others,

1. Takes note of the report of the Special Rapporteur on religious intolerance (E/CN.4/1997/91 and Add.1);

2. Expresses grave concern at and condemns all forms of intolerance and of discrimination based on religion or belief;

3. Urges States:

(a) To ensure that their constitutional and legal systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without discrimination, including the provision of effective remedies in cases where the right to freedom of religion or belief is violated;

(b) To ensure, in particular, that no one within their jurisdiction is deprived of the right to life or the right to liberty and security of person because of religion or belief, or is subjected to torture or arbitrary arrest or detention on that account;

(c) In conformity with international standards of human rights, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, including practices which violate the human rights of women and discriminate against women;

(d) To recognize, as provided in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;

(e) To ensure that, in the course of their official duties, members of law enforcement bodies, civil servants, educators and other public officials respect different religions and beliefs and do not discriminate on the grounds of religion or belief;

(f) To exert their utmost efforts, in accordance with their national legislation and in conformity with international human rights standards, to ensure that religious places, sites and shrines are fully respected and protected;

(g) To promote and encourage through the educational system and by other means, understanding, tolerance and respect in matters relating to freedom of religion or belief;

4. Emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

5. Encourages the continued efforts on the part of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate;

6. Stresses the need for the Special Rapporteur to apply a gender perspective, inter alia through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

7. Calls upon all Governments to cooperate with the Special Rapporteur on religious intolerance and to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

8. Welcomes the work of Special Rapporteur and reiterates the need for him to be able to respond effectively to credible and reliable information that comes before him, and invites him to continue to seek the views and comments of Governments concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

9. Recognizes that the exercise of tolerance and non-discrimination by all actors in society is necessary for the full realization of the aims of the Declaration;

10. Welcomes and encourages the efforts of non-governmental organizations and religious bodies and groups to promote the implementation of the Declaration and invites them to consider what further contribution they could make to its implementation and dissemination in all parts of the world;

11. Considers it desirable to enhance the promotional and public information activities of the United Nations in matters relating to freedom of religion or belief and to ensure, as a matter of priority, the widest possible dissemination of the text of the Declaration by United Nations information centres, as well as by other interested bodies;

12. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to enable him to carry out his mandate, to submit an interim report to the General Assembly at its fifty-second session and to report to the Commission at its fifty-fourth session;

13. Decides to continue its consideration of the question at its fifty-fourth session under the agenda item entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief".

56th meeting
11 April 1997
[Adopted without a vote. See chap. XIX.]

1997/19. Traffic in women and girls

The Commission on Human Rights,

Reaffirming the principles set forth in the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women,

Recalling

That the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights on 25 June 1993, affirmed the human rights of women and the girl child as an inalienable, integral and indivisible part of universal human rights,

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and taking note of the comments contained in the report of the Secretary-General,

All previous resolutions on the problem of the traffic in women and girls,

Affirming the provisions of the outcome of the World Conference on Human Rights, the International Conference on Population and Development, the World Summit for Social Development, the Fourth World Conference on Women and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders pertaining to the traffic in women and children,

Acknowledging the work done by intergovernmental and non-governmental organizations in compiling information on the scale and complexity of the problem of trafficking, in providing shelters for trafficked women and children and in effecting their voluntary repatriation to their countries of origin,

Noting with concern the increasing number of women and girls from developing countries and from some countries with economies in transition who are being victimized by traffickers, and acknowledging that trafficking also victimizes young boys,

Convinced of the need to eliminate all forms of sexual violence and sexual trafficking, including for prostitution and other forms of commercial sex, which are violations of the human rights of women and girls and are incompatible with the dignity and worth of the human person,

Realizing the urgent need for the adoption of effective measures nationally, regionally and internationally to protect women and girls from this nefarious traffic,

1. Notes with appreciation the report of the Secretary-General on the traffic in women and girls (A/51/309);

2. Welcomes the convening of the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996;

3. Calls upon Governments of countries of origin, transit and destination, and regional and international organizations, as appropriate, to implement the Platform for Action of the Fourth World Conference on Women by:

(a) Considering the ratification and enforcement of international conventions on trafficking in persons and on slavery;

(b) Taking appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures;

(c) Stepping up cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking;

(d) Allocating resources to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking, including through job training, legal assistance and confidential health care and taking measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims of trafficking;

(e) Developing educational and training programmes and policies and considering enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children;

4. Invites Governments to take steps to ensure for victims of trafficking the respect of all their human rights and fundamental freedoms;

5. Also invites Governments, with the support of the United Nations, to formulate manuals for the training of personnel who receive and/or hold in temporary custody victims of gender-based violence, including trafficking, with a view to sensitizing them to the special needs of victims;

6. Encourages, in this regard, relevant United Nations bodies and organizations, including the United Nations International Research and Training Institute for the Advancement of Women, the United Nations Development Fund for Women, the United Nations Children's Fund, the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization, as well as the International Organization for Migration, to contribute to the preparation of guidelines for the use of Governments in the elaboration of their manuals, in cooperation with all relevant intergovernmental and non-governmental organizations, including those concerned with traumatic stress, taking into account existing research material or studies on the subject;

7. Notes with appreciation the reports of the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the sale of children, child prostitution and child pornography, particular with respect to the traffic in persons, and encourages them to continue to address this problem among their priority concerns;

8. Encourages the Centre for Human Rights to include the issue of traffic in women and girls in its programme of work under its advisory, training and information activities, with a view to providing assistance to Governments, upon their request, in instituting preventive measures against trafficking through education and appropriate information campaigns;

9. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to encourage its Working Group on Contemporary Forms of Slavery to continue to address the issue of the traffic in women and girls under its Programme of Action for the Prevention of the Traffic in Persons and the Exploitation of the Prostitution of Others (see E/CN.4/Sub.2/1995/28/Add.1);

10. Invites relevant intergovernmental and non-governmental organizations to provide advisory services to Governments, upon their request, in planning and setting up rehabilitation programmes for victims of trafficking and in training personnel who will be directly involved in the implementation of these programmes;

11. Welcomes the decision of the Economic and Social Council to devote its coordination segment of 1997 to mainstreaming a gender perspective;

12. Requests the Secretary-General to provide the Commission, at its fifty-fourth session, with his report to the General Assembly at its fifty-second session on the implementation of General Assembly resolution 51/66;

13. Decides to continue its consideration of the question at its fifty-fourth session under the relevant agenda item.

56th meeting
11 April 1997
[Adopted without a vote. See chap. XVI.]

1997/20. Contemporary forms of slavery

The Commission on Human Rights,

Gravely concerned at modern manifestations of slavery, the slave trade and slavery-like practices,

Recalling its previous resolutions on the subject, especially resolution 1996/61 of 23 April 1996, and taking note of the resolutions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the subject, including resolutions 1996/12 of 23 August 1996 and 1996/18 of 29 August 1996,

Bearing in mind that the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949, as well as article 4 of the Universal Declaration of Human Rights and article 8 of the International Covenant on Civil and Political Rights provide, inter alia, that no one shall be held in slavery or servitude,

1. Welcomes the work of the Working Group on Contemporary Forms of Slavery and takes note of its recommendations;

2. Expresses its grave concern at manifestations of contemporary forms of slavery, inter alia those reported to the Working Group;

3. Requests the Secretary-General to invite those eligible States that have not yet ratified or acceded to the conventions on slavery to consider doing so as soon as possible;

4. Calls upon States:

(a) To consider taking appropriate action for the protection of groups of persons particularly vulnerable to slavery and slavery-like practices, such as children and women, including migrant women;

(b) To consider adopting legal and administrative measures for the protection, rehabilitation and reintegration of victims of contemporary forms of slavery;

(c) That have not yet done so to consider ratifying the pertinent international instruments, including the Forced Labour Convention, 1930 (No. 29) and the Minimum Age Convention, 1973 (No. 138) of the International Labour Organization;

5. Requests the Secretary-General:

(a) To continue the examination of the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes and to include, in an updated report, an analysis of this question, to be submitted to the Commission at its fifty-fifth session in order to enable the Commission to decide whether continued attention to this question is required;

(b) To transmit to Governments an appeal for contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery;

(c) To designate the Office of the High Commissioner/Centre for Human Rights as the focal point for the coordination of activities in the United Nations system for the suppression of contemporary forms of slavery;

6. Decides to resume consideration of this question at its fifty-fifth session.

56th meeting
11 April 1997
[Adopted without a vote. See chap. XVI.]

1997/21. Minimum humanitarian standards

The Commission on Human Rights,

Gravely concerned at the large number of situations where internal violence causes extensive suffering and breaches of the principles of humanity and undermines the protection of human rights,

Conscious of the desirability of continuing to study the principles of humanity governing the behaviour of all persons, groups and public authorities,

Emphasizing, in this regard, the need to identify and implement measures to prevent violations and abuses of human rights and fundamental freedoms, in particular the right to life and integrity of the individual,

Recalling its resolution 1996/26 of 19 April 1996 and welcoming the report of the International Workshop on Minimum Humanitarian Standards organized in Cape Town, South Africa from 27 to 29 September 1996 (E/CN.4/1997/77/Add.1, annex), by the Governments of Denmark, Finland, Iceland, Norway, Sweden and South Africa, in cooperation with the International Committee of the Red Cross, to address the issue of minimum humanitarian standards applicable in all situations,

1. Recognizes the desirability of identifying principles applicable to all situations in a manner consistent with international law, including the Charter of the United Nations;

2. Also recognizes in this regard the vital importance of the existence in each country of appropriate national legislation for dealing with such situations in a manner consistent with the rule of law;

3. Invites all States to consider reviewing their national legislation relevant to situations of public emergency with a view to ensuring that it meets the requirements of the rule of law and that it does not involve discrimination on the grounds of race, colour, sex, language, religion or social origin;

4. Requests the Secretary-General, in coordination with the International Committee of the Red Cross and within existing resources, to submit to the Commission at its fifty-fourth session an analytical report on the issue of fundamental standards of humanity, taking into consideration in particular the issues raised in the report of the International Workshop on Minimum Humanitarian Standards held in Cape Town, South Africa from 27 to 29 September 1996, and identifying, inter alia, common rules of human rights law and international humanitarian law that are applicable in all circumstances;

5. Also requests the Secretary-General, in preparing his study, to seek the views of and information from Governments, United Nations bodies, in particular the Office of the United Nations High Commissioner for Refugees, the human rights treaty bodies and intergovernmental organizations, as well as regional organizations and non-governmental organizations.

56th meeting
11 April 1997
[Adopted without a vote. See chap. XVI.]

1997/22. Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Reaffirming its resolution 1996/25 of 19 April 1996,

Recalling the terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as defined by the Commission and its particular responsibilities established, inter alia, in Commission resolutions 8 (XXIII) of 16 March 1967 and 17 (XXXVII) of 10 March 1981, Economic and Social Council resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970, and the relevant resolutions of the General Assembly,

Recalling also its resolution 1992/66 of 4 March 1992, in which it provided certain guidelines for the work of the Sub-Commission, and Economic and Social Council resolution 1991/32 of 31 May 1991 on strengthening the independence of the expert members of the Sub-Commission,

Taking note of the report of the working group on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1994/3) and of Sub-Commission decision 1994/117 of 26 August 1994,

Taking note also of the reports of the Sub-Commission and its Chairman on the forty-eighth session (E/CN.4/1997/2-E/CN.4/Sub.2/1996/41 and E/CN.4/1997/79),

1. Reaffirms that the Sub-Commission on Prevention of Discrimination and Protection of Minorities can best assist the Commission on Human Rights by providing it with recommendations based on the views and perspectives of independent experts, which should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices;

2. Expresses its appreciation of the steps undertaken by the Sub-Commission to reform and improve its methods of work, in particular the rationalization of its draft provisional agenda for its forty-ninth session, the initiation of a study on how to revise its work schedule for improved consultation among members (decision 1996/112), the decision to limit the initiation of new studies (decision 1996/113), the compilation of the existing rules of procedure and procedural questions to be resolved (decision 1996/114) and the decision to avoid duplication with the work of the Commission on Human

Rights by not taking action during its forty-ninth session on human rights situations under consideration in the public procedures of the Commission (decision 1996/115);

3. Requests the Sub-Commission to continue thoroughly reviewing its working methods with a view to improving further its efficiency and avoiding duplication with the Commission and its mechanisms, taking into account the views of Member States, and, in this context, calls upon the Sub-Commission:

(a) To focus on its primary role as an advisory body of the Commission on Human Rights;

(b) To refrain henceforth from duplicating action by the Commission on Human Rights with regard to country situations under consideration in the public procedures of the Commission and, furthermore, limitation to exceptional cases in which new and particularly grave circumstances arise;

(c) To give particular attention to the process of selection of studies and, when choosing subjects for study, to take into account recommendations of the Commission on Human Rights and the treaty bodies, explaining the choice made so as to enable the Commission adequately to assess the need for a specific study;

(d) To improve further the independence and the impartiality of the Sub-Commission, in particular in discussions concerning the situation in a specific country;

(e) To facilitate efficient and effective participation of non-governmental organizations;

(f) To improve consultations with special rapporteurs undertaking studies for the Sub-Commission;

(g) Further to enhance cooperation with mechanisms of the Commission and, within their competence, with all relevant bodies, including the human rights treaty bodies and relevant United Nations research institutions;

(h) To focus strictly on questions relating to human rights in accordance with its mandate;

4. Calls upon the Sub-Commission to devote sufficient time at its forty-ninth session to the discussion of its working methods and to prepare specific recommendations on that issue for consideration by the Commission on Human Rights;

5. Reaffirms that members of the Sub-Commission should discharge their functions in their personal capacity and calls upon States to nominate as members and alternates independent experts of recognized competence in the field of human rights, as well as to respect fully the independence of elected members and alternates;

6. Requests States nominating candidates for the Sub-Commission to submit nominations sufficiently early to enable the members of the Commission to assess thoroughly the qualifications of the nominees;

7. Requests the Secretary-General to continue to give strong support to the Sub-Commission and, in particular, to ensure that Sub-Commission documents are available in all the official United Nations languages in good time before the session;

8. Also requests the Secretary-General, in responding to requests from the Sub-Commission to solicit information from Governments and intergovernmental and non-governmental organizations, to agree to such requests only after they have been approved by the Commission on Human Rights;

9. Invites the Chairman of the Commission to inform the Sub-Commission on the debate under this item;

10. Requests the Chairman of the Sub-Commission at its forty-ninth session to report to the Commission at its fifty-fourth session on significant aspects of the work of the Sub-Commission.

56th meeting
11 April 1997
[Adopted without a vote. See chap. XVI.]

1997/23. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular, Part I, paragraph 27, and Part II, paragraphs 88, 90 and 95 thereof,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Recalling its resolution 1994/41 of 4 March 1994, in which it requested the Chairman of the Commission to appoint, for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers,

Recalling also its resolution 1995/36 of 3 March 1995, in which it endorsed the decision of the Special Rapporteur to use, beginning in 1995, the short title "Special Rapporteur on the independence of judges and lawyers",

Recalling further General Assembly resolution 40/32 of 29 November 1985, in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and Assembly resolution 40/146 of 13 December 1985,

Recalling General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

Recalling also the recommendations adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995, regarding, among other things, the invitation addressed to Member States to ensure the independence and impartiality of the judiciary and the proper functioning of prosecutorial and legal services in the field of penal justice and police affairs, taking into account the Basic Principles on the Independence of the Judiciary,

Recalling further the Statement of Principles on the Independence of the Judiciary adopted in Beijing in August 1995 by the Sixth Conference of Chief Justices of Asia and the Pacific, and the Cairo Declaration, adopted in November 1995 by the Third Conference of Francophone Ministers of Justice,

Acknowledging the importance for the Special Rapporteur of being able to cooperate closely, in the framework of his mandate, with the Centre for Human Rights in the field of advisory services and technical cooperation, which could contribute to guaranteeing the independence of judges and lawyers,

Recognizing the importance of the role of non-governmental organizations, bar associations and professional associations of judges in the defence of the principles of the independence of lawyers and judges,

Noting with concern the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

Taking note of the report (E/CN.4/1997/32) submitted by the Special Rapporteur on the implementation of his mandate,

1. Takes note of the report submitted by the Special Rapporteur on the activities relating to his mandate;

2. Also takes note of the cooperative working methods that the Special Rapporteur has adopted to draw up his report and implement his mandate, as described in Commission resolution 1994/41;

3. Welcomes the numerous exchanges the Special Rapporteur has had with several intergovernmental and international organizations and United Nations bodies, and encourages him to continue along this path;

4. Notes with appreciation the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Centre for Human Rights;

5. Invites the United Nations High Commissioner for Human Rights to continue to provide technical assistance to train judges and lawyers and to associate the Special Rapporteur in the elaboration of a manual on the training of judges and lawyers in the field of human rights;

6. Urges all Governments to assist the Special Rapporteur in the discharge of his mandate and to transmit to him all the information requested;

7. Encourages Governments that face difficulties in guaranteeing the independence of judges and lawyers, or that are determined to take measures to implement these principles further, to consult and to consider the services of the Special Rapporteur, for instance by inviting him to their country if the Government concerned deems it necessary;

8. Decides to extend the mandate of the Special Rapporteur for a further period of three years, requests him to submit a report on the activities relating to his mandate to the Commission at its fifty-fourth session, and decides to consider this question at that session;

9. Requests the Secretary-General, within the limits of the regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate;

10. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1997/23 of 11 April 1997, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the independence of judges and lawyers and its request to the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its fifty-fourth session.

56th meeting
11 April 1997

[Adopted without a vote. See chap. VIII.]

1997/24. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission on Human Rights,

Recalling its resolution 1992/43 of 3 March 1992, by which it established an open-ended working group to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussions the draft text proposed by the Government of Costa Rica (E/CN.4/1991/66), and decided to consider the question at its forty-ninth session,

Recalling also the subsequent resolutions on the subject, in particular resolution 1996/22 of 23 July 1996 of the Economic and Social Council in which the Council authorized the working group to meet in order to continue its work,

Recalling further that the World Conference on Human Rights firmly declared that efforts to eradicate torture should, first and foremost, be concentrated on prevention and called for the early adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is intended to establish a preventive system of regular visits to places of detention,

1. Takes note of the report of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (E/CN.4/1997/33 and Add.1), and warmly welcomes the progress made during the working group's fifth session;

2. Requests the open-ended working group to meet for a period of two weeks prior to the fifty-fourth session of the Commission in order to continue its work, with a view to completing expeditiously a final and substantive text, and to report on its work to the Commission at that session;

3. Requests the Secretary-General to transmit the report of the working group to all Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and to intergovernmental and non-governmental organizations, and to invite them to submit their comments to the working group;

4. Also requests the Secretary-General to invite Governments, the specialized agencies and relevant intergovernmental and non-governmental organizations, as well as the Chairperson of the Committee against Torture and the Special Rapporteur on the question of torture, to participate in the activities of the working group;

5. Further requests the Secretary-General to extend all the necessary facilities to the working group for its meeting prior to the fifty-fourth session of the Commission;

6. Decides to examine the report of the working group at its fifty-fourth session under the sub-item entitled "Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" in the context of the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment";

7. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council,

"Recalling Commission on Human Rights resolution 1997/24 of 11 April 1997,

"1. Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of two weeks prior to the fifty-fourth

session of the Commission in order to continue the elaboration of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

"2. Requests the Secretary-General to extend to the working group all necessary facilities for its meetings and to transmit the report of the working group (E/CN.4/1997/33 and Add.1) to Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and the intergovernmental and non-governmental organizations concerned."

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[Adopted without a vote. See chap. VIII.]

1997/25. United Nations staff

The Commission on Human Rights,

Recalling its resolution 1996/29 of 19 April 1996,

Gravely concerned at the recent increase in attacks and the use of force against United Nations and other personnel acting under the authority of United Nations operations as well as personnel of international humanitarian organizations, including murder, physical and psychological threats, hostage-taking, shooting at vehicles and aircraft, mine-laying, looting of assets and other hostile acts and, in this context, welcoming the statement by the President of the Security Council of 12 March 1997 (S/PRST/1997/13) on "Security of United Nations operations",

Noting that since its adoption the Convention on the Safety of United Nations and Associated Personnel has been signed by only 43 Member States and ratified by 10,

1. Takes note of the updated report of the Secretary-General on the detention of international civil servants and their families (E/CN.4/1997/25);

2. Draws attention to the relevant principles on protection found in the Convention on the Privileges and Immunities of the United Nations, in the Convention on the Privileges and Immunities of the Specialized Agencies and in the Convention on the Safety of United Nations and Associated Personnel;

3. Calls upon all States to consider promptly becoming parties to the Convention on the Safety of United Nations and Associated Personnel;

4. Calls upon States and others concerned:

(a) To respect and ensure respect for the rights of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to take the necessary measures to ensure the safety and security of those personnel as well as the inviolability of United Nations premises which are essential to the continuation and successful implementation of United Nations operations;

(b) To provide adequate and prompt information concerning the arrest or detention of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(c) To grant the representative of the competent international organization immediate access to them;

(d) To allow independent medical teams to investigate the health of detained United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to afford them the necessary medical assistance;

(e) To allow representatives of the competent international organization to attend hearings involving United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, provided that such attendance is consistent with domestic law;

(f) To ensure the speedy release of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who have been arrested or detained in violation of their immunity, in accordance with the relevant conventions referred to in the present resolution and applicable international humanitarian law;

(g) To ensure that the perpetrators of unlawful acts against United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are held accountable for their actions;

5. Decides to request the Secretary-General:

(a) To take the necessary measures to ensure full respect for the human rights, privileges and immunities of the United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and, when those human rights, privileges and

immunities are violated, to ensure that such personnel are restored to their organization, and, where appropriate, to seek redress and compensation for the damage caused to them;

(b) To take the necessary measures to implement the recommendations contained in the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the protection of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19), including the recommendations contained in paragraphs 45 and 47;

(c) To seek the inclusion of the applicable principles referred to in paragraph 2 of the present resolution in negotiations of headquarters and other mission agreements concerning United Nations and associated personnel;

(d) To submit to the General Assembly at its fifty-second session a report on the situation of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who are imprisoned, missing or held in a country against their will, on new cases which have been successfully settled, and on the implementation of the measures referred to in the present resolution;

(e) To commission a comprehensive and independent study, from within existing resources, to shed further light on the safety and security problems faced by United Nations and other personnel carrying out activities in the fulfilment of the mandate of a United Nations operation, taking into account the evolution of the nature of United Nations missions around the world and the greater responsibilities of those personnel, giving due consideration to the views of the main United Nations agencies concerned and of relevant international organizations, both intergovernmental and non-governmental.

56th meeting
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[Adopted without a vote. See chap. VIII.]